Canadian Nuclear Safety Commission
Commission canadienne de sûreté nucléaire

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Canadian Nuclear Safety Commission Public Hearings on Licensing Matters

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This document is intended to help persons who participate in or observe public hearings held by the Canadian Nuclear Safety Commission pursuant to Part 2 of the *Canadian Nuclear Safety Commission Rules of Procedure*.

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Ce document est également disponible en français.

Availability of this document

Interested persons may consult this document on the CNSC's Web site at *www.nuclearsafety.gc.ca*, or they may order copies, in English or in French, by contacting

Communications Division
Canadian Nuclear Safety Commission
P.O. Box 1046, Station B
280 Slater Street
Ottawa, ON K1P 5S9
Canada

Telephone: (613) 995-5894 or, in Canada only, 1-800-668-5284
Fax: (613) 992-2915
E-mail: info@cnsc-ccsn.gc.ca

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1. Introduction

This document should help applicants and intervenors when participating in or making submissions at a Canadian Nuclear Safety Commission public hearing on licensing matters.

It should also help observers, such as the public and media, understand the way the Commission conducts these public hearings.

Under the *Nuclear Safety and Control Act* the Commission is required to hold public hearings in order to consider applications for several types of licences.

The Commission conducts these public hearings following the *Canadian Nuclear Safety Commission Rules of Procedure*.

The Commission has the power to vary or supplement any of the Rules of Procedure in order to ensure that a proceeding is dealt with as informally and expeditiously as the circumstances and the considerations of fairness permit. In this regard, participants may request a variation in the Rules of Procedure to ensure that the hearing can be adapted to particular circumstances. Similarly, participants should be aware that the Commission may, on its own initiative, vary or adapt the general rules as required.

Before the Commission can make decisions on licensing matters, a public hearing is held to ensure that the Commission has the information it needs to make decisions and that applicants for a licence and intervenors have had a reasonable opportunity to present relevant information.

Applicants and intervenors are encouraged to contact the Canadian Nuclear Safety Commission (CNSC) if they are unsure of the process or of any requirements concerning their submission. Contact information is found at the end of this document.

2. Public and media observers

Members of the public and media may attend public hearings. The only persons who are entitled to actively participate in a public hearing before the Commission are the applicants, intervenors, CNSC staff and any witnesses who the Commission may allow to give information at the hearing. Members of the public and media may observe the proceedings but have no right to participate unless they have been granted intervenor status.

No advance notice or request need be made by members of the public or media to attend a Commission hearing. The Commission will provide reasonable seating arrangements which are available on a first-come first-served basis. Members of the public and media are expected to maintain proper decorum and courtesy so as to permit the orderly and fair operation of the hearing. The Commission has the authority to maintain order at its hearings and to eject any person who disrupts the hearing.

The media, which includes print and broadcast, are considered members of the public and have the same, but no greater, right to attend a public hearing. The presence of broadcast media should not interfere with the efficiency and fairness of hearings. Broadcast media are encouraged to be at the hearing but their operations must not disrupt the proceedings.

3. Notice of public hearing

When a licensing matter is to be considered by the Commission at a public hearing, the Commission will schedule a date or dates for the hearing. The Commission will give a Notice of Public Hearing at least 60 days in advance of the start of the hearing.

The notice will set out whether the hearing is to take place on one or two days, the purpose of the hearing, the dates, time and place of the hearing, and pre-hearing filing deadlines.

Although the Commission has a hearing room at its office in Ottawa, it may from time to time conduct hearings at different locations across the country to provide a greater opportunity for members of the public to participate or observe the proceedings.

4. Overview of the public hearing

The Commission normally holds a hearing for a licensing matter, on two separate days, about 60 days apart. Commission hearings are open to the public. This guide explains the procedures for a hearing on more than one day.

The first day is for applicants to present information on their application to the Commission and for CNSC staff to present their comments and recommendations on the application. The Commission will hear the submissions and may pose questions but it will not decide the matter on that day.

The second day is intended to provide intervenors with an opportunity to address the Commission. This occurs after intervenors have had the opportunity to receive submissions from applicants and CNSC staff, and to attend the proceedings on the first day.

If an intervenor wishes to intervene on day one of a two day hearing, a request can be made to the Commission to vary its Rules of Procedure to permit this. The Commission will consider the request and, if granted, may establish a deadline for the receipt of submissions prior to the first hearing day.

Together the two days form the public hearing. A timeline of the steps of a public hearing is found at the end of the document.

A hearing before the Commission must be as informal and expeditious as the circumstances and considerations of fairness permit. The Commission will conduct hearings in a manner which allows information to be adequately presented and considered and will make any direction necessary to achieve that. The Commission may issue specific procedural directions during a hearing.

5. General requirements

When information is to be filed with the Commission prior to the public hearing, it is to be filed with the Office of the Commission Secretary, at the head office of the Commission in Ottawa, to the attention of the Commission Operations Officer within the deadlines set out in the Notice of Public Hearing. Departure from a deadline will not be permitted unless, in the Commission's view, it can be reasonably justified and will not cause prejudice to other participants.

Unless the Rules of Procedure specify otherwise, where anyone, including the Commission, is required to give, send, notify, serve or file any information it can be done by hand, by ordinary mail, by registered mail, by facsimile or by courier. Information cannot automatically be transmitted electronically through e-mail without the prior consent of the intended recipient.

The Commission must be promptly notified of changes in any of the contact information for applicants and intervenors. The Commission will not be responsible for any miscommunication resulting from failure to keep the Commission advised of proper contact information.

All information submitted to the Commission regarding a hearing will be made publicly available. Any person giving information to the Commission that qualifies for protection may ask the Commission to take measures (such as closing the hearing to the public or restricting access to the information) to protect the confidentiality of that information.

6. Pre-hearing filing for applicants

A licensee or a licence applicant who intends to appear at a public hearing, must file with the Commission, at least 30 days before the start of the hearing, a notice that includes:

- applicant's name, mailing address, street address, telephone number and any telecommunication numbers;
- a statement whether the applicant intends to appear at the public hearing;
- where applicable, the name, mailing address, street address, telephone number and any telecommunication numbers of the counsel or agent who will represent the applicant;
- a copy of the documentary information and submissions that the applicant will present to the Commission at the hearing and, if the applicant intends to call any witnesses at the hearing, a list of any of the witnesses the applicant proposes to call; and
- the official language to be used during a presentation.

Applicants must specify all information or submissions which the applicant wishes the Commission to consider. A person who makes an oral presentation at the hearing must have complied with the pre-hearing filing requirements.

The applicant should also include with this filing a summary of any information which is not in documentary form, but which the applicant intends to present to the Commission at the hearing. This would include information to be presented in the form of slides or photographs, or a material object (such as a machine) or information to be presented orally through a witness or the presenter themselves.

The applicant may file additional documentary material with the Commission, at least seven days before the start of the hearing, to the extent necessary to supplement or amend the material originally filed. This provision is intended to allow the updating of previously filed material as required by changing circumstances. The Commission may not permit the filing of additional information that is new or not directly connected to the material filed earlier.

If the applicant is to be represented by counsel or an agent, the Commission will send all further communications to the applicant in care of that representative unless otherwise advised.

7. Pre-hearing filing by CNSC staff

Participants should be aware that CNSC staff may need additional time to process information or submissions from participants so that CNSC staff can file their submisssions with the Commission at least 30 days before the start of a public hearing in accordance with the Rules of procedure. CNSC staff may file additional documentary material with the Commission, at least seven days before the start of the hearing.

8. Pre-hearing filing for intervenors

Any person, other than the applicant, may apply to the Commission for permission to participate as an intervenor in a public hearing by sending a written request for permission to intervene to the Commission at least 30 days before the second hearing day.

All written submissions must contain specific information as listed below. If any information is missing, a prospective intervenor may not be permitted to participate in the hearing.

An intervention request must include:

- the name, mailing address, street address, telephone number and any telecommunication numbers of the intervenor;
- a description of how the person making the request
  (i) has an interest in the matter being heard; or
  (ii) has expertise in the matter or information that may be useful to the Commission in coming to a decision;
- a statement setting out whether the person wishes to intervene only in writing or wishes to be heard orally at the hearing;
- any information or submissions the person wishes the Commission to consider;
- if the person intends to be represented by counsel or an agent, the name, mailing address, street address, telephone number and telecommunication numbers if any of the counsel or agent; and
- the official language to be used during a presentation.

If the person making the request is to be represented by counsel or an agent, the Commission will send all further communications to the person in care of that representative unless otherwise advised.

9. Official languages

The Commission operates in both official languages. All documents given to the Commission must be in either English or French. The Commission will respond in the same language.

Simultaneous interpretation in both official languages will be provided if sufficient notice is given.

A person may give the Commission a document which is not in one of the official languages if at the time the document is given to the Commission the person also gives the Commission a copy of the document translated into either French or English. The translation must be accompanied by an affidavit of the translator attesting to the accuracy of the translation. The Commission does not pay for this translation.

10. Distribution of pre-filed material

Applicant
The Commission will send the applicant:

- a copy of any submissions that the CNSC staff intend to present at the hearing;
- a copy of any supplementary material that the CNSC staff may file; and
- a copy of any submissions filed by intervenors.

Intervenor
The Commission will send the intervenor:

- a copy of submissions that the CNSC staff intend to present at the hearing;
- a copy of supplementary information filed by the CNSC staff;
- upon request, a copy of any other information which is filed by either the applicant or other intervenors.

The above information will be sent as soon as possible after the date for filing submissions has passed.

11. Availability of hearing documents

All information filed pertaining to a hearing before the Commission is available for public consultation in the CNSC's library at head office in Ottawa.

Participants may request to receive hearing documents by contacting the Commission Operations Officer. (See 19. Contacts relevant to public hearing)

In addition, persons who are not participants in a hearing but wish to receive information pertaining to a hearing may contact the CNSC's Communications Division.

12. Conduct of the public hearing

A public hearing will take place before the Commission, sitting with a quorum of its members present. All participants involved in a hearing must follow the directions of the Chairperson.

OPENING OF HEARING

- The Chairperson will open the hearing and may address any preliminary questions.

ORDER OF PRESENTATIONS

First day of hearing:

1. The applicant will generally be asked to make a presentation.
2. The CNSC staff's presentation will follow the applicant's.

The Commission may ask questions of participants and CNSC staff at any time during or following their presentations. The Commission Chairperson may also permit participants to ask questions, through the Commission, of each other.

Following the presentations by the applicant and the staff, and any questions arising from those presentations, the Chairperson will make any directions that are necessary respecting the continuation of the hearing on the second day (this may include directing the applicant or staff to provide the Commission with further information), and then adjourn the hearing to be reconvened on the second day.

Second day of hearing:

On the second day, the hearing will be reconvened to continue at the point on which it left off. The Commission will hear presentations from intervenors. Any person who appeared before the Commission on the first day of hearing must re-attend unless the Commission has directed otherwise. The Commission may have questions or may wish to receive further information at that time.

- Intervenors will be invited to make their presentations in the order directed by the Chairperson. Unless the Commission otherwise permits, the presentation of each intervenor is limited to ten minutes. If intervenors are making a presentation as a delegation the total time available for the presentation remains ten minutes.

A person who seeks to file a document with the Commission during the public hearing may do so, upon approval of the Chairperson, by giving it to the Secretary who will pass it to the Commission. Where possible, the person giving the document should bring sufficient copies for Commission members, the other participants and CNSC staff.

END OF HEARING

After all participants have made their presentations on the second hearing day, and there are no further questions or issues to be addressed, the Commission will consider no further submissions regarding the application. Then, the Commission will withdraw to consider its decision on each of the licensing applications heard that day. In most cases the Commission will render its decision shortly after the hearing.

13. Communication of decision

After the Commission has reached its decision, a Notice of Decision document will be prepared and sent to all participants. The Notice of Decision will be posted on the Commission's Website. The Commission may also give reasons for its decision. When this occurs, it will be sent to participants.

14. Participants' costs

All expenses associated with a presentation must be borne by the participant.

15. Mailing list

The CNSC maintains a mailing list of persons wishing to receive notice of its proceedings. Any person who wishes to receive notice of an upcoming hearing may ask the CNSC to add their name to the mailing list.

16. Contacts relevant to public hearing

All information relevant to a public hearing should be sent to:

Secretary of the Commission
c/o Commission Operations Officer
Canadian Nuclear Safety Commission

Postal address
P.O. Box 1046, Station B
Ottawa, Ontario K1P 5S9

Street address
280 Slater Street, Ottawa, Ontario

Telephone numbers
(613) 996-2026 or 1-800-668-5284

Facsimile number
(613) 995-5086

E-mail address
interventions@cnsc-ccsn.gc.ca

17. Web site

This document and other information relating to public hearings are posted on the CNSC's Web site: www.nuclearsafety.gc.ca.

18. Summary

This is a summary of the steps involved in a hearing before the Canadian Nuclear Safety Commission. For timing, see the flow chart on next page.

BEFORE FIRST DAY OF HEARING

- Applicant files an application with Commission;
- Notice of Public Hearing is published at least 60 days before the start of a hearing;
- Applicant and CNSC staff file submissions at least 30 days before the start of a hearing;
- Commission sends applicant a copy of any submissions that the CNSC staff intend to present at the hearing;
- Applicant and CNSC staff file supplementary information up to seven days before the start of a hearing;

BEFORE THE SECOND DAY OF HEARING

- Intervenor files request to intervene, with submission, at least 30 days before the second day of a hearing;
- Commission sends applicant a copy of any submissions that intervenors intend to present at the hearing;

at the same time,

- Commission sends intervenors a copy of any submissions that the CNSC staff intend to present at the hearing;
- Intervenor receives, upon request, a copy of any other information which is filed by either the applicant or other intervenors.

DURING THE HEARING

- Presiding Chairperson opens hearing;
- On the first day of hearing, the applicant makes a presentation;
- On the first day of hearing, CNSC staff present their recommendations on the application;
- On the second day of hearing, intervenors present their submissions on the application;
- Commission members may ask questions of participants;
- Participants may ask questions, through the Chairperson, of each other;
- Upon conclusion of the hearing by the Commission, no further submissions will be considered.

END OF HEARING AND DECISION

- Commission withdraws to consider its decision.
- Notice of decision is issued.
- Commission may issue Reasons for Decision.

RELEASE OF DECISION

- Commission transmits Notice of Decision to all participants at a hearing;
- The Notice of Decision is posted on the CNSC's Web site.

19. Timeline

Steps	Activities
1.	Applicant files application for licence or licence renewal with Commission.
2.	Notice of Public Hearing is sent to the applicant and published at least 60 days before hearing.
3.	Applicant and CNSC staff file material at least 30 days before hearing.
4.	Applicant and CNSC staff may file supplementary material up to seven days before hearing.
5.	First day of hearing. Hearing then adjourned to second day of hearing (specified in notice at step 2). Applicant and CNSC staff may file supplementary material as directed by Commission.
6.	Intervenors must file their request to intervene and their submissions at least 30 days before the second day of hearing.
7.	Second day of hearing. Decision.